

by the passage of a law declaring that the act shall take effect immediately.

I indulge the hope, that a spirit of harmony and conciliation will prevail in all your deliberations, and I assure you that I shall most cheerfully co-operate with you in all measures calculated to promote the welfare of our common constituents.

E. M. PEASE.

On motion of Mr. Caldwell, that part of the message referring to the public domain, was referred to the committee on Public Lands.

On motion of Mr. Guinn, that part of the message having reference to the Code, was referred to the Judiciary committee.

On motion of Mr. Flanagan, 500 copies of the Message were ordered to be printed.

On motion of Mr. Taylor of Cass, the Senate adjourned until 8 o'clock, A. M., to-morrow.

WEDNESDAY, July 9, 1856.

The Senate was called to order by the President, pursuant to adjournment—prayer by the Chaplain—roll called—quorum present. The journal of yesterday was read and adopted.

Mr. Lott presented the memorial of Alex'r. M. Morrow; referred to the Committee on Public Lands.

Mr. Lott also presented the petition of W. W. Benson; referred to the Committee on the Judiciary.

Mr. Lott also presented the memorial of Mrs. Lucinda Alexander; referred to the Committee on Private Land Claims, No. 2.

Mr. Guinn presented the petition of Pleasant Pagett; referred to the Committee on Public Lands.

Mr. Taylor of Cass, offered the following resolution:

Resolved, That the Comptroller of the State be required to furnish to the Senate, a statement of the amount paid by each branch of the present Legislature, to this date, for printing, papers and postage—Adopted.

Mr. Armstrong introduced a bill to incorporate the Mechanics' Institute; read 1st and 2nd times and referred to the Committee on the Judiciary.

Mr. Taylor of Cass, introduced a bill for the relief of Absalom J. Lott; read 1st and 2nd times and referred to the Committee on Private Land Claims No. 2.

Mr. Guinn introduced a bill for the relief of Victor Thoma-

son; read 1st and 2nd times and referred to the Committee on Private Land Claims No. 2.

Mr. Guinn introduced a bill for the relief of Edwin Hany; read 1st and 2nd times, and referred to the Committee on Private Land Claims No. 2.

Mr. Taylor of Cass, offered the following resolution:

"Resolved, That the Committee on the Judiciary be instructed to report a bill distributing the School Fund now in the Treasury to the counties, *pro rata*, according to white population—giving the County Courts the right to loan the same on mortgages upon real estate—the interest alone to be invested, as now required by law, for purposes of education."

On motion of Mr. Palmer, it was laid on the table by the following vote:

YEAS—Messrs. Allen, Caldwell, Grimes, Guinn, Hill, Maverick, Palmer, Pirkey, Scarborough, Superviele, Taylor of Cass, Taylor of Houston, Truit, and Whitaker—14.

NAYS—Messrs. Armstrong, Flanagan, Lott, Martin, Russell, Scott, Taylor of Fannin, Weatherford, White, and Wren—10.

Mr. Taylor of Cass, voting in the affirmative, gave notice that on to-morrow he would move a reconsideration.

ORDERS OF THE DAY.

A bill for the relief of the heirs of R. G. Dunlap; read 2nd time and ordered to be engrossed.

A bill for the relief of A. Applewhite; read 2nd time and rejected.

A bill for the relief of Isabel Seguin y Ruiz; read 2nd time and ordered to be engrossed.

Mr. Allen introduced a bill to increase the Common School Fund by a sale of the public domain within the Mississippi and Pacific Railroad Reservation; read 1st and 2nd times and referred to the Committee on Public Lands.

A bill to incorporate the Frost Institute; read 2nd time, and ordered to be engrossed.

On motion of Mr. Palmer, the rule was suspended, bill read 3rd time, and passed by the following vote:

YEAS—Messrs. Allen, Armstrong, Caldwell, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, Martin, Maverick, Russell, Scarborough, Scott, Superviele, Taylor of Cass, Taylor of Fannin, Taylor of Houston, Truit, Weatherford, and Whitaker—25.

NAYS—None.

A bill for the relief of Hamilton Ledbetter ; read 2nd time, and ordered to be engrossed.

A bill for the relief of Thomas Bell ; read 2nd time and ordered to be engrossed.

"Resolution requesting the Internal Improvement Committee to consider the propriety of permitting the location of lands by the local Railroad Companies ;" read, and on motion of Mr. Palmer, referred to the Committee on Internal Improvements.

A bill granting 640 acres of Land to all persons that have been killed or wounded in the battles of Texas with the Mexicans or Indians ; read 2nd time, and on motion of Mr. McCulloch, referred to Committee on Public Lands.

A message was received from the Governor, transmitting the following communications :

EXECUTIVE OFFICE, }
AUSTIN, Texas, 7th July, 1856 }

*Gentlemen of the Senate,
and House of Representatives :*

I return herewith to the Senate, in which it originated, "An Act to incorporate the Trinity Valley Railroad Company."

In the communication I had the honor to submit to you at the commencement of your session, I mentioned certain rules that I thought ought to be adhered to in granting new Railroad charters ; among which were the following, viz: That no new charters should be granted to individuals for their own benefit—that they should be granted to Commissioners, who should be required to open books for the subscription of stock, after giving public notice. No subscription should be secured, unless five per cent. thereof is paid at the time of subscribing, and whenever an amount of the capital stock has been subscribed equal to one-tenth or one-twentieth of the capital necessary to construct the road, the Commissioners should be authorized to call a meeting of the subscribers, and hold an election for officers, after which the subscribers should become a corporation, with all such powers as are set forth in the charter. The commissioners should have no rights under the charter, except as Trustees, for the benefit of the subscribers, when they organize and become a corporation, and should be liable to a heavy penalty for receiving subscriptions of stock without the payment of five per cent. thereof in cash. The corporations thus organized, should have authority, from time to time, to receive further subscriptions to its capital stock, to the full

amount thereof, after giving public notice; the subscribers, in all cases, paying five per cent. of their stock at the time of subscribing.

Subsequent reflection has strengthened my conviction of the soundness of these rules, and has satisfied me that they ought to be incorporated into every Railroad charter, since they will effectually prevent the sale of our charters by the commissioners to whom they are granted—a practice, which, it is well known, has prevailed extensively.

The Act incorporating the Washington county Railroad Company, passed at this session, contained all the provisions here recommended, and it was approved by me. This Act contains none of them, but grants the charter to commissioners, who may use it for their own individual benefit, without regard to the public interest. I feel unwilling to sanction any more charters of this character; I therefore return it to you for your reconsideration.

E. M. PEASE.

On motion of Mr. Taylor of Cass, the message was made the special order for Tuesday, the 15th inst.

EXECUTIVE OFFICE, {
AUSTIN, Texas. }

Gentlemen of the Senate,

and of the House of Representatives:

I return herewith, to the Senate, in which it originated, "An Act relinquishing to the counties, the State tax for the years 1856 and 1857."

If this Act becomes a law, the expenses of the Government must continue to be paid, as they have been for the past five years, out of the bonds received from the United States in the settlement of our North-Western boundary, and before any of the taxes for the year 1858 will be received into the Treasury, these bonds, which amounted to about one and a half million of dollars, at the close of the last fiscal year will be reduced to about six hundred thousand dollars. I declared myself opposed to a continuance of this policy at the commencement of your session, and nothing has since occurred to change the opinion then entertained.

This policy has now been pursued for some years, and has, I am satisfied, led to extravagant and imprudent appropriations, both on the part of the State, and the different counties which have been the recipients of the taxes. Very little attention is paid to the objects for which appropriations are made, or to their amount, so long as the means of paying them do

not have to be provided by a tax on the people. A comparison of the appropriations made at the different sessions, will show that they have more than doubled since they have been paid from these bonds, and I see no means of checking this tendency to extravagance, except a return to the system of paying the expenses of the government from the proceeds of our State tax, when the appropriations will generally be limited to the amount to be received from that tax.

I still entertain the opinion heretofore expressed, that it should be the policy of the State to appropriate these bonds for the establishment of a State University, Lunatic Asylum, and institutions for the education of the deaf, dumb and blind. It is the duty of the State to provide such institutions, and it will have to be done sooner or later. If we fail to secure them now by the use of these bonds, we shall have to do it hereafter by resorting to taxation.

A number of the largest tax-paying counties, that will be the greatest recipients of this tax, have all their county buildings completed—are free from debt, and do not need the amount they will receive under this law.

If there are other smaller counties that need assistance in erecting their county buildings, it would be a better plan to appropriate a sufficient amount for that purpose, out of the State Treasury; we can thus ensure the application of the money to those objects. While we continue this system of giving the State tax to the counties, a large portion of it goes where it is not needed, and where much of it will continue to be wasted, as it has heretofore been, without effecting any permanent good.

Entertaining these opinions, I cannot approve this Act, and therefore return it to you for your reconsideration.

E. M. PEASE.

On motion of Mr. Flanagan, the communication was made the special order for Monday next, the 14th inst.

EXECUTIVE OFFICE, }
AUSTIN, Texas, }

*Gentlemen of the Senate,
and House of Representatives:*

I return herewith to the Senate, in which it originated, "An Act to incorporate the Jefferson and Dangerfield Railroad Company."

This Act is similar to the one incorporating the Trinity Valley Railroad Company, heretofore returned by me to you for

reconsideration, and is liable to the same objections, viz: That it is granted to commissioners who may use it for their own individual benefit, without regard to the public interest, instead of being granted to said commissioners as Trustees, for the use of those who may subscribe and pay for stock. I am unwilling to become a party to any more of this kind of legislation, which has brought our Railroad charters into disrepute, and therefore return the Act to you for your reconsideration.

E. M. PEASE.

On motion of Mr. Taylor of Cass, the communication was laid on the table.

EXECUTIVE OFFICE,
AUSTIN, Texas, 7th July, 1856. }

Gentlemen of the Senate,

and House of Representatives:

I return herewith, to the Senate, in which it originated, "An Act for the relief of Jesse Dean."

The view that I take of my constitutional duty in approving laws, requires me to examine into the foundation of every claim for the payment of which a special Act is passed.

In the execution of that duty, I, in this case, called on the Secretary of the Senate, in which this Act originated, to learn upon what the claim of Jesse Dean was founded; but no report of a committee, nor any information in regard to it, could be obtained.

The claim may be a just one, and such as should properly be paid; but without some information on the subject, I am unwilling to approve this Act, and therefore return it to you for your reconsideration.

E. M. PEASE.

On motion of Mr. Guinn, the communication was made the special order for Saturday, the 12th inst.

EXECUTIVE OFFICE,
AUSTIN, Texas, 7th July, 1856. }

Gentlemen of the Senate,

and of the House of Representatives:

I return herewith to the Senate, in which it originated, "An Act to amend the caption and the first and sixteenth sections of an Act to incorporate the Texas Western Railroad Company, approved February 16th, 1856."

The granting of relief to Railroad Companies has become an important part of our Legislation, and it is very desirable that some uniform rules should be adopted for our government in such matters.

Acts have been passed at this Session giving relief to the Galveston, Houston and Henderson Company. The Galveston and Red River Company, and an Act re-incorporating the Memphis, El Paso and Pacific Company, and upon each of these Companies the terms were imposed—of keeping their principal office on the line of their Road—of holding all elections for Directors and other offices in this State, and of having a majority of their Directors residents of this State. All of these provisions are salutary and necessary to prevent the roads from being managed adversely to the interest of our State and citizens, and yet none of these terms are imposed upon this company. Why this exception and partiality? Is there anything in the previous management of this company to entitle it to peculiar favor? On the contrary, is it not notorious, that its principal offices have been kept out of the State—that most, if not all its elections for Directors and officers, except the one held since this act has been pending, have been held out of the State, and that a large majority of its Directors are non-residents.

Only one of the Companies above named, was liable to these objections, yet in granting them relief, it was deemed necessary to impose these restrictions upon them all, and I can see no good reason, why an exception should be made in favor of this company.

Another objection to this act, is, that it does not limit the time within which it shall be required to survey and sectionize the reservation of land granted by its original Charter. That Charter provides that, "when the road or any branch thereof shall pass through any public lands, all such lands, to the depth of three miles from the extension line of the track, on each side thereof, shall be, and are hereby, reserved for the State from and after the time such track shall be fixed or designated by survey, recognition or otherwise, and said lands, as the road is constructed, shall be divided into sections, fronting one mile each on the road plainly marked, and of these reserved lands, the company shall have the right by virtue of any of their certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use, each alternate section, and the remaining sections shall continue the property of the State until disposed of by the Legislature.

This reservation is to take effect when the track *shall be fixed or designated by survey, recognition or otherwise*. The Company is not even required to make a record of the designation

of the track either in the General Land Office, or any District Surveyor's Office, so that the public can ascertain its locality. It is not required to be surveyed into sections, any faster than the road is constructed, and may therefore, with the exception of the first twenty miles, be continued without surveying or sectionizing for an indefinite period, as the Charter only requires the Company to commence its road within four years from its passage and complete ten miles within five years and twenty miles in six years. This being done, the right to the reservation becomes complete and the Company can keep it fifty or one hundred years without surveying or sectionizing it, if they choose to take that time to construct the residue of their road.

It should be recollected that the route of this road, is from the eastern line of the State to El Paso, and that most of it, after crossing the Brazos, passes through land, a large portion of which is vacant, and also that this company is operating on the line of the Mississippi and Pacific road, to which this company claims a prior right.

I do not now recollect that any other Company has such a reservation over a route, where there is any great extent of vacant land, except the Memphis, El Paso and Pacific Company, which was re-chartered by this Legislature, and this last Company is compelled to survey, sectionize and number all the sections and fractional sections of vacant land within its reservation, and deposit a map of the same in the General Land Office, within four years from the first of March 1856, or forfeit all rights in the reservation. It is also compelled to have graded and ready for the iron, at least one hundred miles of road within four years from the first of March 1856, or the Charter is to be void. Other onerous restrictions requiring the road to be prosecuted to completion in a reasonable time, are also imposed as conditions for the reservation.

The policy of granting such reservations at all, is a very questionable one, and it certainly becomes very objectionable, when, as is the case, with the Company named in this act, the reservation may be continued for an indefinite period of time, without survey and without any record thereof either in the General Land Office or in the offices of the District Surveyors.

The first object sought to be effected by this act, is to change the name of the Company to that of the Southern Pacific Railroad Company; to this there seems to be no objection.

The second object is to make legal all the acts heretofore done by the Company, and to declare such acts legal and bind-

ing on all the parties connected therewith. What acts this is intended to legalize I have no means of knowing, but if it is intended to legalize the sale that is generally understood to have been made of this Charter, to a company organized under the laws of another State, I am unwilling to sanction any such proceeding.

The only remaining object, I can perceive, that is sought to be effected by the act, is to relieve the company from the necessity of completing ten miles of road within five years from the passage of its Charter, and to require it only to grade and furnish cross-ties for ten miles within that time. If this company has any capital, the task will not be an onerous one, to complete the ten miles of road within the time prescribed.— And if it has not capital sufficient to do that much, after having been organized for several years, it certainly ought not to be relieved and continued in the way of other Citizens who may be willing to undertake the construction of such a work.— Besides a failure to construct the ten miles by the 10th of February, 1857, does not forfeit the Charter, but merely forfeits the reservation and right to land under the Charter, and the Company will still be entitled under our General Law to sixteen sections a mile, if the road was commenced in time, and twenty-five miles are completed by the 16th of February, 1858.

I trust it will not be considered out of place here, to allude to some facts connected with the organization and management of this Company.

It is a matter of general notoriety, that during the pendency of the act to provide for the construction of the Mississippi and Pacific Railroad which was approved 21st December, 1853, the original Company organized under this Charter, filed in the General Land Office a designation of their route, and reservation nearly on the 32d parallel of North Latitude, and subsequently made use of the same to control the location of the Mississippi and Pacific road, in which they so far succeeded, as to induce a portion of the members forming the only Company that offered proposals for the construction of that road which came within the provisions of the law, first to purchase this Charter at the price of six hundred thousand dollars.

It is also a matter of equal notoriety that those gentlemen who thus purchased this Charter, afterwards insisted upon their right to retain the contract for the Mississippi and Pacific Railroad, on the ground that they had tendered a worthless deposit, the mere offering of which was a gross indignity to the State, and that after that contract was declared forfeited,

they re-organized this Company with the avowed object of preventing any other Company from taking that contract, and that they have thus far, by representing that they have rights under that contract, and also that they have under this Charter a prior reservation over the route, prevented any other proposals from being offered under the law of the 21st of December, 1853.

It is worthy of your serious consideration, how far it is advisable to grant relief to a company, the controlling members of which have attempted to practice such an imposition upon the State, and have besides endeavored to defeat its favorite policy of securing the construction of the Pacific road across our Territory under the act passed for that purpose. What guaranty have we that these same members will not continue to use this Charter to defeat the policy and interest of the State.

But if any relief is to be granted to this Company, it ought to be on condition that it consents to such changes in its original rights and privileges, and submits to such terms and restrictions as experience has shown to be necessary for the protection of the public interest. This is the course that this Legislature has pursued towards other Companies to which it has granted relief, and there is no good reason why this Company should form an exception.

These considerations have compelled me to withhold my approval from this act, and to return it to you for your reconsideration.

E. M. PEASE.

On motion of Mr. Scott, the communication and bill were laid on the table, and 500 copies of the message ordered to be printed.

"A bill to create the county of Palo Pinto," read and ordered to be engrossed.

A bill to appropriate certain monies in the Treasury to the School Fund ; read, and ordered to be engrossed.

A bill making valid a certain survey therein named ; read, and ordered to be engrossed.

A bill for the relief of John Todd and Charles Stanley, with report of the Committee on Private Land Claims No. 1 ; read, and on motion of Mr. Russell, laid on the table.

A bill to amend an "Act to incorporate the Union Marine and Fire Insurance Company," approved January 26th, 1848, together with the report of the Judiciary Committee on the same, offering an amendment thereto ; read, and on motion of Mr. Palmer, the report was adopted.

The bill was then ordered to be engrossed.

A bill for the relief of James Rogers, read 2nd time; and on motion of Mr. Flanagan, laid on the table.

On motion of Mr. Superviele, a bill to create and organize the 18th Judicial District, and to define the time of holding Courts therein, was taken from the table, and read.

On motion of Mr. McCulloch, "McCulloch" as the name of one county, was stricken out, and "Maverick" inserted.

On motion of Mr. Superviele, the 1st section was amended, by striking out "Cibolo and Karnes"—also, the 2nd section, by striking out all after the words "to wit"—also, the 4th section, by striking out all after the word "repealed."

On motion of Mr. Hord, the bill was made the special order of the day for to-morrow—11 o'clock.

Mr. Lott offered the following resolution:

Resolved, That the President appoint a Committee of three, to act in conjunction with a like Committee on the part of the House, to devise some means to authorize Charles S. Boggess, Paymaster, to settle with the State officers—Adopted.

Messrs. Lott, Taylor of Houston, and Hord were appointed said Committee.

A bill to amend an Act legalizing the official acts of Wm. H. Steele, commissioner—read. And,

On motion of Mr. Caldwell, re-referred to the Committee on the Judiciary.

A bill to exempt one or more negroes, not exceeding five, from execution or forced sales—read. And,

On motion of Mr. Flanagan, laid on the table.

A bill to quiet land titles, read; and on motion of Mr. Taylor of Cass, made the special order for Saturday, the 12th inst., and one hundred copies ordered to be printed.

Resolution of the Senate requesting the Committee on Internal Improvements to consider the propriety of permitting the local Railroad Companies, created by the Legislature, to locate the lands granted to them in their charters, &c., &c., read; and on motion of Mr. Palmer, referred to the Committee on Internal Improvements.

Resolution of the Senate requesting the Judiciary Committee to take under consideration the passage of some law allowing open accounts to be proven before a Notary Public, together with the report of the Committee thereon, recommending that it lie on the table, was read; and report adopted.

A bill to provide for the transfer of certain books, papers,

archives and records from the Adjutant General's Office to the General Land Office, read ; and ordered to be engrossed.

A bill to require the return of unconditional Headright certificates in certain cases, read ; and on motion of Mr. Taylor of Cass, laid on the table.

A bill for the relief of the soldiers of the Republic of Texas, together with the report of the Committee on Public Lands, recommending its indefinite postponement, was read ; and report adopted.

A bill to secure the right of redemption in lands sold under execution, together with the report of the Committee on Public Lands, recommending that it lie on the table, was read ; and report adopted.

A bill supplementary to the Act entitled "An Act to authorize the County Courts to issue unconditional Headright certificates when conditional certificates only have issued, together with the report of the Committee on the Judiciary, recommending its rejection, was read ; and report adopted.

A bill to amend the 1st section of an Act to provide for the appointment of Patrols, and to prescribe their duties and powers, together with the report of the Committee on the Judiciary, offering amendments thereto, was read ; amendments adopted, and bill ordered to be engrossed.

Proposed amendment to the Constitution, with the report of the Judiciary Committee, recommending its rejection, read ; and on motion of Mr. Palmer, the report was laid on the table.

Mr. Palmer offered a substitute for the Joint Resolution ; substitute adopted, and bill ordered to be engrossed.

A bill to define, in part, the 5th Senatorial District, together with the report of the Committee on Public Lands, recommending its indefinite postponement, was read ; and on motion of Mr. Armstrong, laid on the table.

The report of the Judiciary Committee upon a resolution requiring them to take into consideration the propriety of modifying the law granting trial by jury, reporting unfavorably thereon, was read ; and on motion of Mr. Flanagan, laid on the table.

Proposed amendment to the Constitution, together with the report of the Committee on the Judiciary, recommending its passage, was read ; and ordered to be engrossed.

The report of the Committee on Finance, on the petition of J. R. Burleson and Sarah Burleson, returning the same to the

Senate, and asking to be discharged from the further consideration of the same—read and adopted.

On motion of Mr. Taylor of Cass, the Senate adjourned until to-morrow morning at 8 o'clock.

THURSDAY, July 10th, 1856.

The Senate was called to order by the President, pursuant to adjournment. Prayer by the Chaplain—roll called—quorum present. The Journal of yesterday, read and adopted.

Mr. Lott presented the memorial of Morgan P. Ellis; referred to committee on Judiciary.

Mr. Hill presented the petitions of Joseph Lawrence, M. F. Alexander and Romulus Flowers; referred to the committee on Private Land Claims No. 2.

Mr. White presented the petition of Elizabeth Tally; referred to the committee on Private Land Claims No. 1.

Mr. Taylor of Houston, presented the petition of the citizens of Houston county; referred to the committee on State Affairs.

Mr. Scott, Chairman of the committee on Public Lands made the following reports :

The committee on Public Lands, to whom was referred a bill granting 640 acres of land to all persons killed or wounded in the battles of Texas with the Mexicans or Indians, have considered the same, and a majority of said committee have instructed me to report the same back to the Senate and recommend its rejection.

The Committee on Public Lands, to which was referred the petition of Pleasant Pogett, have considered the same, and find no evidence of his having fulfilled the requisitions of the law, by residing within the limits of the Colony for three years, and therefore, is not entitled, legally, to the land prayed for; I am therefore, instructed to report the same back, and recommend its rejection.

The committee, on Public Lands to which was referred a bill for the relief of Henry Stout, have had the same under examination, and find that the claim in his favor is mostly for "provisions and amunition furnished the army, and therefore, the committee have instructed me to report the same back to the Senate and recommend its reference to the committee on Public Debt.

Mr. Russell, from the committee on Private Land Claims, No. 2, to which was referred the petition of G. W. F. Haynes